IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 2872 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr.M.S. Karnik for Petitioner.

Mr. Sureshkumar for Respondents.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : JANUARY 28, 2005

P.C.

. The Petitioner was compulsorily retired by order dated 26.12.2000. Against that order he preferred an appeal which appeal was dismissed by order dated 13.6.2001. As there was internal revision applicable, petitioner preferred revision application. The revision came to be heard and disposed of by order dated 22.7.2002. By the order the Revisional Authority set aside the order of compulsory retirement and instead modified the punishment of compulsory retirement to " reduction to minimum pay scale from Rs.3875/- to Rs.3050/- in the time scale." It was also directed that on

reinstatement he be posted at Chandrapur.

. The Petitioner challenged his order of transfer to Chandrapur by O.A. No. 780 of 2000. That came to be disposed of, however, with a direction that considering that the petitioner had made representation on 12.8.2002 that representation should be considered. The representation was rejected by order dated 28.2.2003. Before rejection of the representation, the petitioner had already filed O.A. No. 937 of 2002 which came to be disposed of by order dated 20.6.2003. The O.A. was disposed of with a direction that the Respondent before it should modify the penalty imposed by the order dated 29.7.2002 i accordance with the provisions made under Rule 11(5), within a period of two months from the date of receipt of the order.

. This order is a subject matter of the present challenge. On behalf of the Petitioner, it is contended that the effect of the order by the revisional authority, substituting the order of compulsory retirement has severe financial consequences on the petitioner as in the event of compulsory retirement, he would

have received higher pensionary benefits than what he would be entitled to by the order passed by the Revisional authority. That being the matter, he prays that this court if it choses not to interfere with the order passed by the Central Administrative Tribunal may give liberty to the petitioner to withdraw his appeal and consequently revision and thereby restore the order of compulsory retirement.

. The request is unusual. However, considering the effect of the order passed by the Revisional Authority which has severe consequences on the petitioner's pensionary entitlement, we think that this will be a fit case where we can permit the petitioner to withdraw his appeal and revision.

. On behalf of the Respondents, their learned counsel has contended that it is petitioner who have filed revision and it is not open to the petitioner now to complain about the order passed by the revisional authority.

. In the light of that following order :

. The appeal and revision both are allowed

to be withdrawn and dismissed as such.

. Consequently, the order passed in Original Application is set aside and order of compulsory retirement dated 26.12.2000 is restored. The respondents are directed to pay pensionary benefits to the petitioner which he is entitled to in law.

(F.I.REBELLO,J.)

(S.P.KUKDAY,J.)